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DE RUEHC #9977 3452345
ZNR UUUUU ZZH
O 102338Z DEC 08
FM SECSTATE WASHDC
TO RUCNDT/USMISSION USUN NEW YORK IMMEDIATE 0000
INFO UN SECURITY COUNCIL COLLECTIVE IMMEDIATE
RUEHTC/AMEMBASSY THE HAGUE IMMEDIATE 0000
RUEHVB/AMEMBASSY ZAGREB IMMEDIATE 0000
RUEHVJ/AMEMBASSY SARAJEVO IMMEDIATE 0000
RUEHBW/AMEMBASSY BELGRADE IMMEDIATE 0000
RUEHLGB/AMEMBASSY KIGALI IMMEDIATE 0000
RUEHKB/AMEMBASSY KINSHASA IMMEDIATE 0000
RUEHJB/AMEMBASSY BUJUMBURA IMMEDIATE 0000
RUEHDR/AMEMBASSY DAR ES SALAAM IMMEDIATE 0000

UNCLAS STATE 129977

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E.O. 12958: N/A
TAGS: [UNSC](#) [PREL](#) [ICTY](#) [ICTR](#) [KAWC](#) [ZF](#) [ZL](#) [RW](#)
SUBJECT: GUIDANCE FOR 12/12 UNSC ICTY/ICTR DEBATE

¶1. The Department requests that USUN draw on the following points for use during the Security Council's December 12 consultations on the Completion Strategies for the International Criminal Tribunals for the Former Yugoslavia and Rwanda (ICTY and ICTR).

¶2. Begin Points:

The United States would like to thank the Prosecutors and Presidents for their briefings and for their continued work to fight impunity. We would also like to commend the tribunals, judges and staff for their diligence and their dedication to the tribunals, work. We welcome the new ICTY President Robinson and note our appreciation for the continuing work of ICTR President Byron and Prosecutors Jallow and Brammertz.

The United States recognizes the many accomplishments of the tribunals and we acknowledge, in particular, the recent arrests of Radovan Karadzic Stojan Zupljanin and the commencement of proceedings in their cases. We urge the tribunals to continue to implement their completion strategies so that the courts can fulfill their ultimate mandate of bringing justice to those responsible for crimes in the Former Yugoslavia and Rwanda. We expect that the chambers will endeavor to bring the cases and trials currently in progress to resolution as soon as possible. We regret the continued focus on increased judicial pensions which the United States and others oppose. It is very important that issues such as this do not overshadow or interfere with the efficient administration of justice.

We note the difficulties that the ICTR faces in transferring the cases of indictees to national jurisdictions, and we urge the international community to reaffirm its commitment to strengthening the domestic judicial capacity of Rwanda and the countries of the former Yugoslavia. The U.S. commends the domestic prosecutorial and judicial efforts to ensure accountability for crimes committed in the Balkan wars, which is critical to the long-term stability of the region.

We want to stress once again that the fugitive indictees must be brought to justice. We cannot allow individuals who have been indicted by the ICTY and ICTR to enjoy impunity simply because they outlast the tribunals. It must be clear to them and to those who support them that such a strategy will not succeed. Accordingly, the United States urges the international community to work diligently toward securing the arrests of the 15 individuals indicted by ICTY and ICTR who remain at large.

The United States calls on all States to fulfill their legal

obligations to cooperate fully with the Tribunals. We are encouraged by recent cooperation between the ICTR and the Democratic Republic of the Congo in tracking fugitives but more is needed. These fugitives destabilize and breed conflict in eastern Congo. The Congolese government should continue to seek to apprehend these fugitives, with the assistance of the UN agencies as appropriate. We are troubled, however, by the lack of urgency in the Kenyan government to act on reports that ICTR fugitive and alleged genocide financier Felicien Kabuga continues to have links to Kenya. The United States urges Kenya to act immediately on the Tribunal's recommendations and take additional steps to deny Kabuga access to his networks of support.

Concerning the ICTY, we applaud Serbia for the arrest and transfer of Radovan Karadzic. The remaining ICTY fugitives, Ratko Mladic and Goran Hadzic, must also be apprehended, so we call on the Serbian authorities to do everything in their power to locate and arrest these individuals. A resolution of their cases is critical for stability and reconciliation in the Balkans. We also wish to stress the importance of all countries fully cooperating with the ICTY, and we note our concern over Prosecutor Brammetz's report that the prosecution has not received key documents for the Gotovina trial, despite some encouraging steps taken by the Croatian government. We urge the authorities in Bosnia and Herzegovina, Croatia, and Serbia to continue to work closely with the ICTY and for their governments to fulfill all of their responsibilities relative to the Tribunal. In addition, we urge the national authorities in the region to work closely with each other so as to enhance information sharing, to facilitate the transfer of war crimes proceedings between states as appropriate, and to consider revisions to laws so as to allow extradition of nationals charged with war crimes.

The United States thanks the Belgian delegation for its work as chair of the Working Group on Criminal Tribunals over the past year. We look forward to working with the new Council members to complete the task of establishing a residual mechanism that ensures that no war criminal from these conflicts enjoys impunity, and that ensures the tribunals' legacy while allowing for their efficient and successful closure.

We again thank the Presidents, Prosecutors, Registrars, and their staffs for their good work and for their efforts to end impunity for these crimes.

End Points

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